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Delta Division  
Contract No.  
14-06-200-7754-LTR1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
Central Valley Project, California

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
AND  
EAGLE FIELD WATER DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE  
FROM THE DELTA DIVISION

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

1 UNITED STATES  
2 DEPARTMENT OF THE INTERIOR  
3 BUREAU OF RECLAMATION  
4 Central Valley Project, California

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
6 AND  
7 EAGLE FIELD WATER DISTRICT  
8 PROVIDING FOR PROJECT WATER SERVICE  
9 FROM THE DELTA DIVISION

10 THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2005, in pursuance  
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,  
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and  
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.  
14 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat.  
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all  
16 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES  
17 OF AMERICA, hereinafter referred to as the United States, and the EAGLE FIELD WATER  
18 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly  
19 organized, existing, and acting pursuant to the laws thereof;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley  
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for

24 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and  
25 restoration, generation and distribution of electric energy, salinity control, navigation and other  
26 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the  
27 San Joaquin River and their tributaries; and

28 [2<sup>nd</sup>] WHEREAS, the United States constructed the Delta-Mendota Canal and related  
29 facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the  
30 terms of this Contract; and

31 [3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States pursuant  
32 to California law for operation of the Project; and

33 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
34 No. 14-06-200-7754, as amended, which established terms for the delivery to the Contractor of  
35 Project Water from the Delta Division Facilities from April 10, 1959, through February 28, 1995;  
36 and

37 [5<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection  
38 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into  
39 interim renewal contract(s) identified as Contract No(s). 14-06-200-7754-IR1, 14-06-200-7754-IR2,  
40 14-06-200-7754-IR3, 14-06-200-7754-IR4, 14-06-200-7754-IR5, 14-06-200-7754-IR6, 14-06-200-  
41 7754-IR7, and 14-06-200-7754-IR8, the current of which is hereinafter referred to as the Existing  
42 Contract, which provided for the continued water service to the Contractor from March 1, 1995,  
43 through February 28, 2006; and

44 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the  
45 Existing Contract following completion of appropriate environmental documentation, including a  
46 programmatic environmental impact statement (PEIS) pursuant to the National Environmental

47 Policy Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the  
48 CVPIA and the potential renewal of all existing contracts for Project Water; and

49 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
50 environmental review necessary to provide for long-term renewal of the Existing Contract; and

51 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal of the Existing  
52 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of  
53 the State of California, for water service from the Project; and

54 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
55 its obligations under the Existing Contract; and

56 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
57 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and  
58 beneficial use and/or has demonstrated projected future demand for water use such that the  
59 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the  
60 quantity of Project Water to be made available to it pursuant to this Contract; and

61 [11<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
62 agricultural areas within California for more than 54 years, and is considered by the Contractor as  
63 an essential portion of its water supply; and

64 [12<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the Contractor's,  
65 depend upon the continued availability of water, including water service from the Project; and

66 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
67 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
68 Project for all Project purposes; and

69 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
70 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment  
71 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a  
72 reasonable balance among competing demands for use of Project Water; and to comply with all  
73 applicable environmental statutes, all consistent with the legal obligations of the United States  
74 relative to the Project; and

75 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
76 relationship in order to achieve their mutual goals; and

77 [15.1] WHEREAS, the Contractor has utilized or may utilize transfers, contract  
78 assignments, rescheduling, and conveyance of Project Water and non-Project water under this  
79 Contract as tools to minimize the impacts of Conditions of Shortage and to maximize the beneficial  
80 use of water; and

81 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a  
82 disincentive to the Contractor in continuing to carry out the beneficial activities set out in the  
83 Explanatory Recital immediately above; and

84 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
85 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

86 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein  
87 contained, it is hereby mutually agreed by the parties hereto as follows:

88 DEFINITIONS

89 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible  
90 with the intent of the parties as expressed in this Contract, the term:

91 (a) "Calendar Year" shall mean the period January 1 through December 31, both  
92 dates inclusive;

93 (b) "Charges" shall mean the payments required by Federal Reclamation law in  
94 addition to the Rates and Tiered Pricing Component specified in this Contract as determined  
95 annually by the Contracting Officer pursuant to this Contract;

96 (c) "Condition of Shortage" shall mean a condition respecting the Project during  
97 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract  
98 Total;

99 (d) "Contracting Officer" shall mean the Secretary of the Interior's duly  
100 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or  
101 regulation;

102 (e) "Contract Total" shall mean the maximum amount of water to which the  
103 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

104 (f) "Contractor's Service Area" shall mean the area to which the Contractor is  
105 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,  
106 which may be modified from time to time in accordance with Article 35 of this Contract without  
107 amendment of this Contract;

108 (g) "CVPIA" shall mean the Central Valley Project Improvement Act, Title  
109 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

110 (g.1) "Delta Division Facilities" shall mean those existing and future Project  
111 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the  
112 Tracy Pumping Plant, the O'Neill Pumping/Generating Plant, and the San Luis Reservoir, used to

113 divert, store, and convey water to those Project Contractors entitled to receive water conveyed  
114 through the Delta-Mendota Canal;

115 (h) “Eligible Lands” shall mean all lands to which Irrigation Water may be  
116 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96  
117 Stat. 1263), as amended, hereinafter referred to as RRA;

118 (i) “Excess Lands” shall mean all lands in excess of the limitations contained in  
119 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
120 Reclamation law;

121 (j) “Full Cost Rate” shall mean an annual rate, as determined by the Contracting  
122 Officer that shall amortize the expenditures for construction properly allocable to the Project  
123 irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits  
124 funded, less payments, over such periods as may be required under Federal Reclamation law, or  
125 applicable contract provisions. Interest will accrue on both the construction expenditures and  
126 funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date  
127 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in  
128 accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual  
129 operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and  
130 Regulations for the RRA;

131 (k) “Ineligible Lands” shall mean all lands to which Irrigation Water may not be  
132 delivered in accordance with Section 204 of the RRA;

133 (l) “Irrigation Full Cost Water Rate” shall mean the Full Cost Rate applicable to  
134 the delivery of Irrigation Water;

135 (m) "Irrigation Water" shall mean water made available from the Project that is  
136 used primarily in the production of agricultural crops or livestock, including domestic use incidental  
137 thereto, and watering of livestock;

138 (n) "Landholder" shall mean a party that directly or indirectly owns or leases  
139 nonexempt land, as provided in 43 CFR 426.2;

140 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other  
141 than Irrigation Water, made available to the Contractor. M&I Water shall include water used for  
142 human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses)  
143 which are kept for personal enjoyment or water delivered to landholdings operated in units of less  
144 than five acres unless the Contractor establishes to the satisfaction of the Contracting Officer that  
145 the use of water delivered to any such landholding is a use described in subdivision (m) of this  
146 Article;

147 (p) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to the  
148 delivery of M&I Water;

149 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable  
150 care, control, operation, repair, replacement (other than capital replacement), and maintenance of  
151 Project facilities;

152 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)  
153 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the  
154 Delta Division Facilities pursuant to written agreement(s) with the United States. When this  
155 Contract was entered into, the Operating Non-Federal Entity was the San Luis & Delta-Mendota  
156 Water Authority.

157                   (s)     “Project” shall mean the Central Valley Project owned by the United States  
158 and managed by the Department of the Interior, Bureau of Reclamation;

159                   (t)     “Project Contractors” shall mean all parties who have water service contracts  
160 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

161                   (u)     “Project Water” shall mean all water that is developed, diverted, stored, or  
162 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance  
163 with the terms and conditions of water rights acquired pursuant to California law;

164                   (v)     “Rates” shall mean the payments determined annually by the Contracting  
165 Officer in accordance with the then current applicable water ratesetting policies for the Project, as  
166 described in subdivision (a) of Article 7 of this Contract;

167                   (w)     “Recent Historic Average” shall mean the most recent five-year average of  
168 the final forecast of Water Made Available to the Contractor pursuant to this Contract or its  
169 preceding contract(s);

170                   (x)     “Secretary” shall mean the Secretary of the Interior, a duly appointed  
171 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
172 through any agency of the Department of the Interior;

173                   (y)     “Tiered Pricing Component” shall be the incremental amount to be paid for  
174 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

175                   (z)     “Water Delivered” or “Delivered Water” shall mean Project Water diverted  
176 for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

177                   (aa)    “Water Made Available” shall mean the estimated amount of Project Water  
178 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting  
179 Officer, pursuant to subdivision (a) of Article 4 of this Contract;

180 (bb) "Water Scheduled" shall mean Project Water made available to the  
181 Contractor for which times and quantities for delivery have been established by the Contractor and  
182 Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

183 (cc) "Year" shall mean the period from and including March 1 of each Calendar  
184 Year through the last day of February of the following Calendar Year.

185 TERM OF CONTRACT

186 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2030,  
187 and supercedes the Existing Contract. In the event the Contractor wishes to renew this Contract  
188 beyond February 28, 2030, the Contractor shall submit a request for renewal in writing to the  
189 Contracting Officer no later than two years prior to the date this Contract expires. The renewal of  
190 this Contract insofar as it pertains to the furnishing of Irrigation Water to the Contractor shall be  
191 governed by subdivision (b) of this Article, and the renewal of this Contract insofar as it pertains to  
192 the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

193 (b) (1) Under terms and conditions of a renewal contract that are mutually  
194 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time  
195 of contract renewal the conditions set forth in subdivision (b) (2) of this Article are met, and subject  
196 to Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to  
197 the Contractor, shall be renewed for a period of 25 years.

198 (2) The conditions which must be met for this Contract to be renewed are:  
199 (i) the Contractor has prepared a water conservation plan that has been determined by the  
200 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and  
201 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is  
202 implementing an effective water conservation and efficiency program based on the Contractor's

203 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is operating  
204 and maintaining all water measuring devices and implementing all water measurement methods as  
205 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has  
206 reasonably and beneficially used the Project Water supplies made available to it and, based on  
207 projected demands, is reasonably anticipated and expects to fully utilize for reasonable and  
208 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal; (v)  
209 the Contractor is complying with all terms and conditions of this Contract; and (vi) the Contractor  
210 has the physical and legal ability to deliver Project Water.

211 (3) The terms and conditions of the renewal contract described in  
212 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed  
213 consistent with the parties' respective legal rights and obligations, and in consideration of all  
214 relevant facts and circumstances, as those circumstances exist at the time of renewal, including,  
215 without limitation, the Contractor's need for continued delivery of Project Water; environmental  
216 conditions affected by implementation of the Contract to be renewed, and specifically changes in  
217 those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress  
218 toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the  
219 specific provisions of the CVPIA; and current and anticipated economic circumstances of the region  
220 served by the Contractor.

221 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the  
222 Contractor, shall be renewed for successive periods of up to 40 years each, which periods shall be  
223 consistent with the then-existing Reclamation-wide policy, under terms and conditions mutually  
224 agreeable to the parties and consistent with Federal and State law. The Contractor shall be afforded  
225 the opportunity to comment to the Contracting Officer on the proposed adoption and application of

226 any revised policy applicable to the delivery of M&I Water that would limit the term of any  
227 subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than 40  
228 years.

229 (d) The Contracting Officer shall make a determination ten years after the date of  
230 execution of this Contract, and every five years thereafter during the term of this Contract, of  
231 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of  
232 the Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70  
233 Stat 483). The Contracting Officer shall also make a determination ten years after the date of  
234 execution of this Contract and every five years thereafter during the term of this Contract of whether  
235 a conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1) of the  
236 Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of this  
237 Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956  
238 (70 Stat. 483). The Contracting Officer anticipates that during the term of this Contract, all  
239 authorized Project construction expected to occur will have occurred, and on that basis the  
240 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to  
241 the Contractor, and agrees further that, at any time after such allocation is made, and subject to  
242 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the  
243 Contractor, be converted to a contract under subsection 9(d) or 9(c)(1), whichever is applicable of  
244 the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and  
245 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such  
246 conversion to occur shall be a determination by the Contracting Officer that, account being taken of  
247 the amount credited to return by the Contractor as provided for under Federal Reclamation law, the  
248 remaining amount of construction costs assignable for ultimate return by the Contractor can

249 probably be repaid to the United States within the term of a contract under subsection 9(d) or  
250 9(c)(1), whichever is applicable. If the remaining amount of costs that are properly assignable to  
251 the Contractor cannot be determined during the term of this Contract, the Contracting Officer shall  
252 notify the Contractor, and provide the reason(s) why such a determination could not be made.  
253 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as  
254 to permit, upon request of the Contractor and satisfaction of the conditions set out above,  
255 conversion to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such  
256 determination of costs has not been made at a time which allows conversion of this Contract during  
257 the term of this Contract or the Contractor has not requested conversion of this Contract within such  
258 term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (b)  
259 of this Article a provision that carries forth in substantially identical terms the provisions of this  
260 subdivision.

261 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

262 3. (a) During each Year, consistent with all applicable State water rights, permits,  
263 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this  
264 Contract, the Contracting Officer shall make available for delivery to the Contractor 4,550 acre-feet  
265 of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in accordance  
266 with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7  
267 of this Contract.

268 (b) Because the capacity of the Project to deliver Project Water has been  
269 constrained in recent years and may be constrained in the future due to many factors including  
270 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
271 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article in

272 any given Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected  
273 that the Contract Total set forth in this Contract will not be available to the Contractor in many  
274 years. During the most recent five years, the Recent Historic Average of Water Made Available to  
275 the Contractor was 2,994 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights  
276 and obligations of the parties under any provision of this Contract.

277 (c) The Contractor shall utilize the Project Water in accordance with all  
278 applicable legal requirements.

279 (c.1) In the event any Project Contractor (other than a Cross Valley Contractor)  
280 that receives Project Water through the Delta Division Facilities obtains a contractual agreement  
281 that the Contracting Officer shall make Project Water available at a point or points of delivery in or  
282 north of the Delta, at the request of the Contractor and upon completion of any required  
283 environmental documentation, this Contract shall be amended to provide for deliveries in or north  
284 of the Delta on mutually agreeable terms. Such amendments to the Contract shall be limited solely  
285 to those changes made necessary by the addition of such alternate points of delivery in or north of  
286 the Delta; Provided, That the Contracting Officer's use of the Harvey O. Banks Pumping Plant to  
287 deliver Project Water does not trigger this right of amendment.

288 (d) The Contractor shall make reasonable and beneficial use of all water  
289 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),  
290 groundwater banking programs, surface water storage programs, and other similar programs  
291 utilizing Project Water or other water furnished pursuant to this Contract conducted within the  
292 Contractor's Service Area which are consistent with applicable State law and result in use consistent  
293 with Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is  
294 (are) described in the Contractor's water conservation plan submitted pursuant to Article 26 of this

295 Contract; Provided, further, That such water conservation plan demonstrates sufficient lawful uses  
296 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered  
297 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation  
298 law. Groundwater recharge programs, groundwater banking programs, surface water storage  
299 programs, and other similar programs utilizing Project Water or other water furnished pursuant to  
300 this Contract conducted outside the Contractor's Service Area may be permitted upon written  
301 approval of the Contracting Officer, which approval will be based upon environmental  
302 documentation, Project Water rights, and Project operational concerns. The Contracting Officer  
303 will address such concerns in regulations, policies, or guidelines.

304 (e) The Contractor shall comply with requirements applicable to the Contractor  
305 in biological opinion(s) prepared as a result of a consultation regarding the execution of this  
306 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as  
307 amended, that are within the Contractor's legal authority to implement. The Existing Contract,  
308 which evidences in excess of 45 years of diversions for irrigation and/or M&I purposes of the  
309 quantities of water provided in subdivision (a) of this Article, will be considered in developing an  
310 appropriate baseline for biological assessment(s) prepared pursuant to the ESA, and any other  
311 needed environmental review. Nothing herein shall be construed to prevent the Contractor from  
312 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
313 biological opinion or other environmental documentation referred to in this Article.

314 (f) Following the declaration of Water Made Available under Article 4 of this  
315 Contract, the Contracting Officer will make a determination whether Project Water, or other water  
316 available to the Project, can be made available to the Contractor in addition to the Contract Total  
317 under this Article during the Year without adversely impacting other Project Contractors. At the

318 request of the Contractor, the Contracting Officer will consult with the Contractor prior to making  
319 such a determination. If the Contracting Officer determines that Project Water, or other water  
320 available to the Project, can be made available to the Contractor, the Contracting Officer will  
321 announce the availability of such water and shall so notify the Contractor as soon as practical. The  
322 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable  
323 of taking such water to determine the most equitable and efficient allocation of such water. If the  
324 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make  
325 such water available to the Contractor in accordance with applicable statutes, regulations,  
326 guidelines, and policies. Subject to existing long-term contractual commitments, water rights and  
327 operational constraints, long-term Project Contractors shall have a first right to acquire such water,  
328 including Project Water made available pursuant to Section 215 of the RRA.

329 (g) The Contractor may request permission to reschedule for use during the  
330 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,  
331 referred to as “rescheduled water.” The Contractor may request permission to use during the  
332 current Year a quantity of Project Water which may be made available by the United States to the  
333 Contractor during the subsequent Year referred to as “preuse.” The Contracting Officer’s written  
334 approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and  
335 policies.

336 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable  
337 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during  
338 the term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract,  
339 during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its  
340 obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall

341 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of  
342 Article 12 of this Contract or applicable provisions of any subsequent renewal contracts.

343 (i) Project Water furnished to the Contractor pursuant to this Contract may be  
344 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this  
345 Contract upon written approval by the Contracting Officer in accordance with the terms and  
346 conditions of such approval.

347 (j) The Contracting Officer shall make reasonable efforts to protect the water  
348 rights necessary for the Project and to provide the water available under this Contract. The  
349 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
350 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,  
351 That the Contracting Officer retains the right to object to the substance of the Contractor's position  
352 in such a proceeding; Provided further, That in such proceedings the Contracting Officer shall  
353 recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

354 TIME FOR DELIVERY OF WATER

355 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall  
356 announce the Contracting Officer's expected declaration of the Water Made Available. Such  
357 declaration will be expressed in terms of both Water Made Available and the Recent Historic  
358 Average and will be updated monthly, and more frequently if necessary, based on then-current  
359 operational and hydrologic conditions and a new declaration with changes, if any, to the Water  
360 Made Available will be made. The Contracting Officer shall provide forecasts of Project operations  
361 and the basis of the estimate, with relevant supporting information, upon the written request of the  
362 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting  
363 Officer shall provide the Contractor with the updated Recent Historic Average.

364 (b) On or before each March 1 and at such other times as necessary, the  
365 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting  
366 Officer, showing the monthly quantities of Project Water to be delivered by the United States to the  
367 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting  
368 Officer shall use all reasonable means to deliver Project Water according to the approved schedule  
369 for the Year commencing on such March 1.

370 (c) The Contractor shall not schedule Project Water in excess of the quantity of  
371 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's  
372 Service Area or to sell, transfer, or exchange pursuant to Article 9 of this Contract during any Year.

373 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this  
374 Contract, the United States shall deliver Project Water to the Contractor in accordance with the  
375 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any  
376 written revision(s) thereto, satisfactory to the Contracting Officer, submitted within a reasonable  
377 time prior to the date(s) on which the requested change(s) is/are to be implemented.

378 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

379 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
380 Contract shall be delivered to the Contractor at a point or points and any additional point or points  
381 of delivery either on Project facilities or another location or locations mutually agreed to in writing  
382 by the Contracting Officer and the Contractor.

383 (b) The Contracting Officer, either directly or indirectly through its written  
384 agreement(s) with the Operating Non-Federal Entity(ies), shall make all reasonable efforts to  
385 maintain sufficient flows and levels of water in Project facilities to deliver Project Water to the  
386 Contractor at the point or points of delivery established pursuant to subdivision (a) of this Article.

387 (c) The Contractor shall deliver Irrigation Water in accordance with any  
388 applicable land classification provisions of Federal Reclamation law and the associated regulations.  
389 The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless  
390 approved in advance by the Contracting Officer.

391 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
392 measured and recorded with equipment furnished, installed, operated, and maintained by the  
393 Contracting Officer either directly or indirectly through its written agreement(s) with the Operating  
394 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting  
395 Officer, at the point or points of delivery established pursuant to subdivision (a) of this Article.  
396 Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause  
397 to be investigated by the appropriate Operating Non-Federal Entity(ies), the accuracy of such  
398 measurements and shall take any necessary steps to adjust any errors appearing therein. For any  
399 period of time when accurate measurements have not been made, the Contracting Officer shall  
400 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any, prior to  
401 making a final determination of the quantity delivered for that period of time.

402 (e) Absent a separate contrary written agreement with the Contractor, neither the  
403 Contracting Officer nor any Operating Non-Federal Entity (ies) shall be responsible for the control,  
404 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to  
405 this Contract beyond the point or points of delivery established pursuant to subdivision (a) of this  
406 Article. The Contractor shall indemnify the United States, its officers, employees, agents, and  
407 assigns on account of damage or claim of damage of any nature whatsoever for which there is legal  
408 responsibility, including property damage, personal injury, or death arising out of or connected with  
409 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such

410 point or points of delivery, except for any damage or claim arising out of: (i) acts or omissions of  
411 the Contracting Officer or any of its officers, employees, agents, and assigns, including the  
412 Operating Non-Federal Entity(ies), with the intent of creating the situation resulting in any damage  
413 or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents,  
414 and assigns, including the Operating Non-Federal Entity(ies); (iii) negligence of the Contracting  
415 Officer or any of its officers, employees, agents, and assigns including the Operating Non-Federal  
416 Entity(ies); or (iv) a malfunction of facilities owned and/or operated by the United States or the  
417 Operating Non-Federal Entity(ies).

418 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

419 6. (a) The Contractor has established a measuring program satisfactory to the  
420 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
421 purposes within the Contractor's Service Area is measured at each agricultural turnout and such  
422 water delivered for M&I purposes is measured at each M&I service connection. The water  
423 measuring devices or water measuring methods of comparable effectiveness must be acceptable to  
424 the Contracting Officer. The Contractor shall be responsible for installing, operating, and  
425 maintaining and repairing all such measuring devices and implementing all such water measuring  
426 methods at no cost to the United States. The Contractor shall use the information obtained from  
427 such water measuring devices or water measuring methods to ensure its proper management of the  
428 water, to bill water users for water delivered by the Contractor; and, if applicable, to record water  
429 delivered for M&I purposes by customer class as defined in the Contractor's water conservation  
430 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude  
431 the Contractor from establishing and collecting any charges, assessments, or other revenues

432 authorized by California law. The Contractor shall include a summary of all its annual surface  
433 water deliveries in the annual report described in subdivision (c) of Article 26.

434 (b) To the extent the information has not otherwise been provided, upon  
435 execution of this Contract, the Contractor shall provide to the Contracting Officer a written report  
436 describing the measurement devices or water measuring methods being used or to be used to  
437 implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I  
438 service connections or alternative measurement programs approved by the Contracting Officer, at  
439 which such measurement devices or water measuring methods are being used, and, if applicable,  
440 identifying the locations at which such devices and/or methods are not yet being used including a  
441 time schedule for implementation at such locations. The Contracting Officer shall advise the  
442 Contractor in writing within 60 days as to the adequacy, and necessary modifications, if any, of the  
443 measuring devices or water measuring methods identified in the Contractor's report and if the  
444 Contracting Officer does not respond in such time, they shall be deemed adequate. If the  
445 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate,  
446 the parties shall within 60 days following the Contracting Officer's response, negotiate in good faith  
447 the earliest practicable date by which the Contractor shall modify said measuring devices and/or  
448 measuring methods as required by the Contracting Officer to ensure compliance with subdivision  
449 (a) of this Article.

450 (c) All new surface water delivery systems installed within the Contractor's  
451 Service Area after the effective date of this Contract shall also comply with the measurement  
452 provisions described in subdivision (a) of this Article.

453 (d) The Contractor shall inform the Contracting Officer and the State of  
454 California in writing by April 30 of each Year of the monthly volume of surface water delivered  
455 within the Contractor's Service Area during the previous Year.

456 (e) The Contractor shall inform the Contracting Officer and the Operating  
457 Non-Federal Entity on or before the 20th calendar day of each month of the quantity of Irrigation  
458 Water and M&I Water taken during the preceding month.

459 RATES AND METHOD OF PAYMENT FOR WATER

460 7. (a) The Contractor shall pay the United States as provided in this Article for all  
461 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance  
462 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's  
463 then-existing ratesetting policy for M&I Water, which ratesetting policies shall be amended,  
464 modified, or superceded only through a public notice and comment procedure; (ii) applicable  
465 Federal Reclamation law and associated rules and regulations, or policies; and (iii) other applicable  
466 provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfer,  
467 or any other mechanism as may be agreed to in writing by the Contractor and the Contracting  
468 Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon  
469 execution of this Contract are set forth in Exhibit "B," as may be revised annually.

470 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and  
471 Tiered Pricing Component as follows:

472 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
473 provide the Contractor an estimate of the Charges for Project Water that will be applied to the  
474 period October 1, of the current Calendar Year, through September 30, of the following Calendar  
475 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months to

476 review and comment on such estimates. On or before September 15 of each Calendar Year, the  
477 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the  
478 period October 1 of the current Calendar Year, through September 30, of the following Calendar  
479 Year, and such notification shall revise Exhibit "B."

480 (2) Prior to October 1 of each Calendar Year, the Contracting Officer  
481 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component for  
482 Project Water for the following Year and the computations and cost allocations upon which those  
483 Rates are based. The Contractor shall be allowed not less than two months to review and comment  
484 on such computations and cost allocations. By December 31 of each Calendar Year, the  
485 Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing Component  
486 to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

487 (c) At the time the Contractor submits the initial schedule for the delivery of  
488 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor  
489 shall make an advance payment to the United States equal to the total amount payable pursuant to  
490 the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be  
491 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end  
492 of the first month and before the end of each calendar month thereafter, the Contractor shall make  
493 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for  
494 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately  
495 following. Adjustments between advance payments for Water Scheduled and payments at Rates  
496 due for Water Delivered shall be made before the end of the following month; Provided, That any  
497 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases  
498 the amount of Water Delivered pursuant to this Contract during any month shall be accompanied

499 with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not  
500 delivered to the Contractor in advance of such payment. In any month in which the quantity of  
501 Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled  
502 and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor  
503 unless and until an advance payment at the Rates then in effect for such additional Project Water is  
504 made. Final adjustment between the advance payments for the Water Scheduled and payments for  
505 the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon  
506 as practicable but no later than April 30th of the following Year, or 60 days after the delivery of  
507 Project Water rescheduled under subdivision (g) of Article 3 of this Contract if such water is not  
508 delivered by the last day of February.

509 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
510 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
511 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
512 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
513 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent  
514 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery  
515 report for the subject month prepared by the Operating Non-Federal Entity(ies) or, if there is no  
516 Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be  
517 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water  
518 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the  
519 adjustment of payments due to the United States for Charges for the next month. Any amount to be  
520 paid for past due payment of Charges and the Tiered Pricing Component shall be computed  
521 pursuant to Article 20 of this Contract.

522 (e) The Contractor shall pay for any Water Delivered under subdivision (a), (f),  
523 or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable  
524 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;  
525 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall  
526 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision  
527 (a) of this Article.

528 (f) Payments to be made by the Contractor to the United States under this  
529 Contract may be paid from any revenues available to the Contractor.

530 (g) All revenues received by the United States from the Contractor relating to the  
531 delivery of Project Water or the delivery of non-Project water through Project facilities shall be  
532 allocated and applied in accordance with Federal Reclamation law and the associated rules or  
533 regulations, and the then current Project ratesetting policies for M&I Water or Irrigation Water.

534 (h) The Contracting Officer shall keep its accounts pertaining to the  
535 administration of the financial terms and conditions of its long-term contracts, in accordance with  
536 applicable Federal standards, so as to reflect the application of Project costs and revenues. The  
537 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a  
538 detailed accounting of all Project and Contractor expense allocations, the disposition of all Project  
539 and Contractor revenues, and a summary of all water delivery information. The Contracting Officer  
540 and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes  
541 relating to accountings, reports, or information.

542 (i) The parties acknowledge and agree that the efficient administration of this  
543 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
544 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,

545 and/or for making and allocating payments, other than those set forth in this Article may be in the  
546 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to  
547 modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in  
548 effect without amending this Contract.

549 (j) (1) Beginning at such time as deliveries of Project Water in a Year  
550 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
551 delivery the Contractor shall make an additional payment to the United States equal to the  
552 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
553 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
554 Contract Total, shall equal one-half of the difference between the Rate established under  
555 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,  
556 whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which  
557 exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established  
558 under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost  
559 Water Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article  
560 3 of this Contract which is in excess of 80 percent of the Contract Total, this increment shall be  
561 deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual  
562 deliveries of each bear to the cumulative total Water Delivered.

563 (2) Subject to the Contracting Officer's written approval, the Contractor  
564 may request and receive an exemption from such Tiered Pricing Component for Project Water  
565 delivered to produce a crop which the Contracting Officer determines will provide significant and  
566 quantifiable habitat values for waterfowl in fields where the water is used and the crops are  
567 produced; Provided, That the exemption from the Tiered Pricing Component for Irrigation Water

568 shall apply only if such habitat values can be assured consistent with the purposes of the CVPIA  
569 through binding agreements executed with or approved by the Contracting Officer prior to use of  
570 such water.

571 (3) For purposes of determining the applicability of the Tiered Pricing  
572 Component pursuant to this Article, Water Delivered shall include Project Water that the Contractor  
573 transfers to others but shall not include Project Water transferred to the Contractor, nor shall it  
574 include the additional water provided to the Contractor under the provisions of subdivision (f) of  
575 Article 3 of this Contract.

576 (k) For the term of this Contract, Rates applied under the respective ratesetting  
577 policies will be established to recover only reimbursable O&M (including any deficits) and capital  
578 costs of the Project, as those terms are used in the then-current Project ratesetting policies, and  
579 interest, where appropriate, except in instances where a minimum Rate is applicable in accordance  
580 with the relevant Project ratesetting policy. Changes of significance in practices which implement  
581 the Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer  
582 has provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed  
583 change.

584 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,  
585 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in  
586 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect  
587 the changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred  
588 Project Water to the transferee's point of delivery. If the Contractor is receiving lower Rates and  
589 Charges because of inability to pay and is transferring Project Water to another entity whose Rates

590 and Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project  
591 Water shall not be adjusted to reflect the Contractor's inability to pay.

592 (m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting  
593 Officer is authorized to adjust determinations of ability to pay every five years.

594 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is not  
595 legally obligated to pay any Project deficits claimed by the United States to have accrued as of the  
596 date of this Contract or deficit-related interest charges thereon. By entering into this Contract, the  
597 Contractor does not waive any legal rights or remedies that it may have with respect to such  
598 disputed issues. Notwithstanding the execution of this Contract and payments made hereunder, the  
599 Contractor may challenge in the appropriate administrative or judicial forums; (1) the existence,  
600 computation, or imposition of any deficit charges accruing during the term of the Existing Contract  
601 and any preceding interim renewal contracts, if applicable; (2) interest accruing on any such  
602 deficits; (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by  
603 the United States of payments made by the Contractor under its Existing Contract and any  
604 preceding interim renewal contracts if applicable; and (5) the application of such payments in the  
605 Rates. The Contracting Officer agrees that the Contractor shall be entitled to the benefit of any  
606 administrative or judicial ruling in favor of any Project M&I contractor on any of these issues, and  
607 credits for payments heretofore made, provided that the basis for such ruling is applicable to the  
608 Contractor.

609 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

610 8. The Contractor and the Contracting Officer concur that, as of the effective date of  
611 this Contract, the Contractor has no non-interest bearing O&M deficits and shall have no further  
612 liability therefore.

613 SALES, TRANSFERS, OR EXCHANGES OF WATER

614 9. (a) The right to receive Project Water provided for in this Contract may be sold,  
615 transferred, or exchanged to others for reasonable and beneficial uses within the State of California  
616 if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable  
617 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this  
618 Contract may take place without the prior written approval of the Contracting Officer, except as  
619 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be  
620 approved absent all appropriate environmental documentation, including but not limited to,  
621 documents prepared pursuant to the NEPA and ESA. Such environmental documentation should  
622 include, as appropriate, an analysis of groundwater impacts and economic and social effects,  
623 including environmental justice, of the proposed water transfers on both the transferor and  
624 transferee.

625 (b) In order to facilitate efficient water management by means of water transfers  
626 of the type historically carried out among Project Contractors located within the same geographical  
627 area and to allow the Contractor to participate in an accelerated water transfer program during the  
628 term of this Contract, the Contracting Officer shall prepare, as appropriate, all necessary  
629 environmental documentation, including but not limited to documents prepared pursuant to NEPA  
630 and ESA, analyzing annual transfers within such geographical areas and the Contracting Officer  
631 shall determine whether such transfers comply with applicable law. Following the completion of  
632 the environmental documentation, such transfers addressed in such documentation shall be  
633 conducted with advance notice to the Contracting Officer, but shall not require prior written  
634 approval by the Contracting Officer. Such environmental documentation and the Contracting  
635 Officer's compliance determination shall be reviewed every five years and updated, as necessary,

636 prior to the expiration of the then existing five-year period. All subsequent environmental  
637 documentation shall include an alternative to evaluate not less than the quantity of Project Water  
638 historically transferred within the same geographical area.

639 (c) For a water transfer to qualify under subdivision (b) of this Article, such  
640 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years,  
641 for M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface  
642 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to  
643 established cropland, wildlife refuges, groundwater basins, or M&I use; (ii) occur within a single  
644 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing  
645 facilities with no new construction or modifications to facilities and be between existing Project  
646 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply  
647 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection  
648 of the environment and Indian Trust Assets, as defined under Federal law.

649 APPLICATION OF PAYMENTS AND ADJUSTMENTS

650 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,  
651 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of  
652 the Contractor arising out of this Contract then due and payable. Overpayments of more than  
653 \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such  
654 overpayment at the option of the Contractor may be credited against amounts to become due to the  
655 United States by the Contractor. With respect to overpayment, such refund or adjustment shall  
656 constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the  
657 use of any of the Project Water supply provided for herein. All credits and refunds of overpayments  
658 shall be made within 30 days of the Contracting Officer obtaining direction as to how to credit or

659 refund such overpayment in response to the notice to the Contractor that it has finalized the  
660 accounts for the Year in which the overpayment was made.

661 (b) All advances for miscellaneous costs incurred for work requested by the  
662 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when  
663 the work has been completed. If the advances exceed the actual costs incurred, the difference will  
664 be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor  
665 will be billed for the additional costs pursuant to Article 25.

666 TEMPORARY REDUCTIONS--RETURN FLOWS

667 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the  
668 requirements of Federal law and (ii) the obligations of the United States under existing contracts, or  
669 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make  
670 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this  
671 Contract.

672 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may  
673 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein  
674 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of  
675 the Project facilities or any part thereof necessary for the delivery of Project Water to the  
676 Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity(ies) will  
677 give the Contractor due notice in advance of such temporary discontinuance or reduction, except in  
678 case of emergency, in which case no notice need be given; Provided, That the United States shall  
679 use its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of  
680 service after such reduction or discontinuance, and if requested by the Contractor, the United States

681 will, if possible, deliver the quantity of Project Water which would have been delivered hereunder  
682 in the absence of such discontinuance or reduction.

683 (c) The United States reserves the right to all seepage and return flow water  
684 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond  
685 the Contractor's Service Area; Provided, That this shall not be construed as claiming for the United  
686 States any right to seepage or return flow being put to reasonable and beneficial use pursuant to this  
687 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or  
688 under the Contractor.

689 CONSTRAINTS ON THE AVAILABILITY OF WATER

690 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable  
691 means to guard against a Condition of Shortage in the quantity of water to be made available to the  
692 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a  
693 Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said  
694 determination as soon as practicable.

695 (b) If there is a Condition of Shortage because of errors in physical operations of  
696 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions  
697 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision  
698 (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its  
699 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

700 (c) In any Year in which there may occur a Condition of Shortage for any of the  
701 reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this Article, the  
702 Contracting Officer will first allocate the available Project Water consistent with the Central Valley  
703 Project M&I Water Shortage Policy in its form on the effective date of this Contract for determining

704 the amount of Project Water available for delivery to the Project Contractors. Subject to the  
705 foregoing allocation, in any year in which there may occur a Condition of Shortage, the Contracting  
706 Officer shall then apportion Project Water among the Contractor and others entitled to Project  
707 Water from Delta Division Facilities under long-term water service or repayment contracts (or  
708 renewals thereof or binding commitments therefore) in force on February 28, 2005, as follows:

709 (1) The Contracting Officer shall make an initial and subsequent  
710 determination as necessary of the total quantity of Project Water estimated to be scheduled or  
711 actually scheduled under subdivision (b) of Article 4 of this Contract and under all other long-term  
712 water service or repayment contracts then in force for the delivery of Project Water by the United  
713 States from Delta Division Facilities during the relevant Year, the quantity so determined being  
714 hereinafter referred to as the scheduled total;

715 (2) A determination shall be made of the total quantity of Project Water  
716 that is available for meeting the scheduled total, the quantity so determined being hereinafter  
717 referred to as the available supply;

718 (3) The total quantity of Project Water estimated to be scheduled or  
719 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of Article 4  
720 hereof, shall be divided by the scheduled total, the quotient thus obtained being hereinafter referred  
721 to as the Contractor's proportionate share; and

722 (4) The available supply shall be multiplied by the Contractor's  
723 proportionate share and the result shall be the quantity of Project Water made available by the  
724 United States to the Contractor for the relevant Year in accordance with the schedule developed by  
725 the Contracting Officer under subdivision (c) (1) of this Article, but in no event shall such amount  
726 exceed the Contract Total. In the event the Contracting Officer subsequently determines that the

727 Contracting Officer can increase or needs to decrease the available supply for delivery from Delta  
728 Division Facilities to long-term water service and repayment Contractors during the relevant Year,  
729 such additions or reductions to the available supply shall be apportioned consistent with  
730 subparagraphs (1) through (4), inclusive.

731 (d) By entering into this Contract, the Contractor does not waive any legal rights  
732 or remedies it may have to file or participate in any administrative or judicial proceeding contesting  
733 (i) the sufficiency of the Central Valley Project M&I Water Shortage Policy; (ii) the substance of  
734 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is  
735 implemented in order to allocate Project Water between municipal and industrial and irrigation  
736 purposes; Provided, that the Contractor has commenced any such judicial challenge or any  
737 administrative procedures necessary to institute any judicial challenge within six months of the  
738 policy becoming final. By agreeing to the foregoing, the Contracting Officer does not waive any  
739 legal defenses or remedies that it may have to assert in such a proceeding. Nothing contained herein  
740 shall be interpreted to validate or invalidate the Central Valley Project M&I Water Shortage Policy.

741 UNAVOIDABLE GROUNDWATER PERCOLATION

742 13. To the extent applicable, the Contractor shall not be deemed to have delivered  
743 Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this Contract if such  
744 lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of  
745 the delivery of Irrigation Water by the Contractor to Eligible Lands.

746 RULES AND REGULATIONS

747 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities  
748 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to the  
749 Reclamation Reform Act of 1982 (43 U.S.C.390aa et seq.), as amended and supplemented, and the  
750 rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation law.

751

WATER AND AIR POLLUTION CONTROL

752 15. The Contractor, in carrying out this Contract, shall comply with all applicable water  
753 and air pollution laws and regulations of the United States and the State of California, and shall  
754 obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

755

QUALITY OF WATER

756 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to  
757 this Contract shall be operated and maintained to enable the United States to deliver Project Water  
758 to the Contractor in accordance with the water quality standards specified in subsection 2(b) of the  
759 Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100  
760 Stat. 3050) or other existing Federal laws. The United States is under no obligation to construct or  
761 furnish water treatment facilities to maintain or to improve the quality of Water Delivered to the  
762 Contractor pursuant to this Contract. The United States does not warrant the quality of Water  
763 Delivered to the Contractor pursuant to this Contract.

764 (b) The O&M of Project facilities shall be performed in such manner as is  
765 practicable to maintain the quality of raw water made available through such facilities at the highest  
766 level reasonably attainable as determined by the Contracting Officer. The Contractor shall be  
767 responsible for compliance with all State and Federal water quality standards applicable to surface  
768 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor  
769 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

770 (c) Omitted.

771

WATER ACQUIRED BY THE CONTRACTOR  
OTHER THAN FROM THE UNITED STATES

772

773 17. (a) Water or water rights now owned or hereafter acquired by the Contractor  
774 other than from the United States and Irrigation Water furnished pursuant to the terms of this  
775 Contract may be simultaneously transported through the same distribution facilities of the

776 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water  
777 and non-Project water were constructed without funds made available pursuant to Federal  
778 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the  
779 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation  
780 Water must be established through the certification requirements as specified in the Acreage  
781 Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands  
782 within the Contractor's Service Area can be established and the quantity of Irrigation Water to be  
783 utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the  
784 facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with  
785 funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to  
786 the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the  
787 United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee,  
788 the Contracting Officer will calculate annually the cost to the Federal Government, including  
789 interest of storing or delivering non-Project water, which for purposes of this Contract shall be  
790 determined as follows: The quotient shall be the unpaid distribution system costs divided by the  
791 total irrigable acreage within the Contractor's Service Area. The incremental fee per acre is the  
792 mathematical result of such quotient times the interest rate determined using Section 202 (3) of the  
793 Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of  
794 excess or full cost land within the Contractor's Service Area that receives non-Project water through  
795 Federally financed or constructed facilities. The incremental fee calculation methodology will  
796 continue during the term of this Contract absent the promulgation of a contrary Reclamation-wide  
797 rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review

798 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is  
799 adopted it shall supercede this provision.

800 (b) Water or water rights now owned or hereafter acquired by the Contractor,  
801 other than from the United States may be stored, conveyed and/or diverted through Project facilities,  
802 subject to the completion of appropriate environmental documentation, with the approval of the  
803 Contracting Officer and the execution of any contract determined by the Contracting Officer to be  
804 necessary, consistent with the following provisions:

805 (1) The Contractor may introduce non-Project water into Project facilities  
806 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,  
807 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an  
808 appropriate rate as determined by the applicable Project ratesetting policy, the RRA, and the Project  
809 use power policy, if such Project use power policy is applicable, each as amended, modified, or  
810 superceded from time to time.

811 (2) Delivery of such non-Project water in and through Project facilities  
812 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes  
813 as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to  
814 other Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any  
815 other Project Contractors; or (iv) interfere with the physical maintenance of the Project facilities.

816 (3) Neither the United States nor the Operating Non-Federal Entity(ies)  
817 shall be responsible for control, care, or distribution of the non-Project water before it is introduced  
818 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to  
819 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their  
820 respective officers, agents, and employees, from any claim for damage to persons or property, direct

821 or indirect, resulting from the act(s) of the Contractor, its officers, employees, agents, or assigns, in  
822 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project  
823 water into Project facilities.

824 (4) Diversion of such non-Project water into Project facilities shall be  
825 consistent with all applicable laws, and if involving groundwater, consistent with any applicable  
826 groundwater management plan for the area from which it was extracted.

827 (5) After Project purposes are met, as determined by the Contracting  
828 Officer, the United States and Project Contractors entitled to Project Water from Delta Division  
829 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be  
830 available by the Contracting Officer for conveyance and transportation of non-Project water prior to  
831 any such remaining capacity being made available to non-Project contractors. Other Project  
832 Contractors shall have a second priority to any remaining capacity of facilities declared to be  
833 available by the Contracting Officer for conveyance and transportation of non-Project water prior to  
834 any such remaining capacity being made available to non-Project contractors.

835 OPINIONS AND DETERMINATIONS

836 18. (a) Where the terms of this Contract provide for actions to be based upon the  
837 opinion or determination of either party to this Contract, said terms shall not be construed as  
838 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
839 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly  
840 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or  
841 unreasonable opinion or determination. Each opinion or determination by either party shall be  
842 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall

843 affect or alter the standard of judicial review applicable under Federal law to any opinion or  
844 determination implementing a specific provision of Federal law embodied in statute or regulation.

845 (b) The Contracting Officer shall have the right to make determinations  
846 necessary to administer this Contract that are consistent with the provisions of this Contract, the  
847 laws of the United States and of the State of California, and the rules and regulations promulgated  
848 by the Secretary of the Interior. Such determinations shall be made in consultation with the  
849 Contractor to the extent reasonably practicable.

850 COORDINATION AND COOPERATION

851 19. (a) In order to further their mutual goals and objectives, the Contracting Officer  
852 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other  
853 affected Project Contractors, in order to improve the operation and management of the Project. The  
854 communication, coordination, and cooperation regarding operations and management shall include,  
855 but not be limited to, any action which will or may materially affect the quantity or quality of  
856 Project Water supply, the allocation of Project Water supply, and Project financial matters  
857 including, but not limited to, budget issues. The communication, coordination, and cooperation  
858 provided for hereunder shall extend to all provisions of this Contract. Each party shall retain  
859 exclusive decision making authority for all actions, opinions, and determinations to be made by the  
860 respective party.

861 (b) Within 120 days following the effective date of this Contract, the Contractor,  
862 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested  
863 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be  
864 amended as necessary separate and apart from this Contract. The goal of this process shall be to

865 provide, to the extent practicable, the means of mutual communication and interaction regarding  
866 significant decisions concerning Project operation and management on a real-time basis.

867 (c) In light of the factors referred to in subdivision (b) of Article 3 of this  
868 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this  
869 intent:

870 (1) The Contracting Officer will, at the request of the Contractor, assist in  
871 the development of integrated resource management plans for the Contractor. Further, the  
872 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to  
873 improve water supply, water quality, and reliability.

874 (2) The Secretary will, as appropriate, pursue program and project  
875 implementation and authorization in coordination with Project Contractors to improve the water  
876 supply, water quality, and reliability of the Project for all Project purposes.

877 (3) The Secretary will coordinate with Project Contractors and the State  
878 of California to seek improved water resource management.

879 (4) The Secretary will coordinate actions of agencies within the  
880 Department of the Interior that may impact the availability of water for Project purposes.

881 (5) The Contracting Officer shall periodically, but not less than annually,  
882 hold division level meetings to discuss Project operations, division level water management  
883 activities, and other issues as appropriate.

884 (d) Without limiting the contractual obligations of the Contracting Officer under  
885 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the  
886 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or

887 other interested stakeholders or to make decisions in a timely fashion as needed to protect health,  
888 safety or the physical integrity of structures or facilities.

889 CHARGES FOR DELINQUENT PAYMENTS

890 20. (a) The Contractor shall be subject to interest, administrative and penalty charges  
891 on delinquent installments or payments. When a payment is not received by the due date, the  
892 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.  
893 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative  
894 charge to cover additional costs of billing and processing the delinquent payment. When a payment  
895 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six  
896 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the  
897 Contractor shall pay any fees incurred for debt collection services associated with a delinquent  
898 payment.

899 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in  
900 the Federal Register by the Department of the Treasury for application to overdue payments, or the  
901 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation  
902 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due  
903 date and remain fixed for the duration of the delinquent period.

904 (c) When a partial payment on a delinquent account is received, the amount  
905 received shall be applied, first to the penalty, second to the administrative charges, third to the  
906 accrued interest, and finally to the overdue payment.

907 EQUAL OPPORTUNITY

908 21. During the performance of this Contract, the Contractor agrees as follows:

909 (a) The Contractor will not discriminate against any employee or applicant for  
910 employment because of race, color, religion, sex, or national origin. The Contractor will take  
911 affirmative action to ensure that applicants are employed, and that employees are treated during  
912 employment, without regard to their race, color, religion, sex, or national origin. Such action shall  
913 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;  
914 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of  
915 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in  
916 conspicuous places, available to employees and applicants for employment, notices to be provided  
917 by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

918 (b) The Contractor will, in all solicitations or advertisements for employees  
919 placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration  
920 for employment without discrimination because of race, color, religion, sex, or national origin.

921 (c) The Contractor will send to each labor union or representative of workers  
922 with which it has a collective bargaining agreement or other contract or understanding, a notice, to

923 be provided by the Contracting Officer, advising the said labor union or workers' representative of  
924 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965,  
925 and shall post copies of the notice in conspicuous places available to employees and applicants for  
926 employment.

927 (d) The Contractor will comply with all provisions of Executive Order  
928 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of  
929 the Secretary of Labor.

930 (e) The Contractor will furnish all information and reports required by said  
931 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or  
932 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting  
933 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such  
934 rules, regulations, and orders.

935 (f) In the event of the Contractor's noncompliance with the nondiscrimination  
936 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be  
937 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared  
938 ineligible for further Government contracts in accordance with procedures authorized in said  
939 amended Executive Order, and such other sanctions may be imposed and remedies invoked as  
940 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as  
941 otherwise provided by law.

942 (g) The Contractor will include the provisions of paragraphs (a) through (g) in  
943 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
944 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
945 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action  
946 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a  
947 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,  
948 That in the event the Contractor becomes involved in, or is threatened with, litigation with a  
949 subcontractor or vendor as a result of such direction, the Contractor may request the United States  
950 to enter into such litigation to protect the interests of the United States.

951 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

952 22. (a) The obligation of the Contractor to pay the United States as provided in this  
953 Contract is a general obligation of the Contractor notwithstanding the manner in which the  
954 obligation may be distributed among the Contractor's water users and notwithstanding the default of  
955 individual water users in their obligations to the Contractor.

956 (b) The payment of charges becoming due hereunder is a condition precedent to  
957 receiving benefits under this Contract. The United States shall not make water available to the  
958 Contractor through Project facilities during any period in which the Contractor may be in arrears in  
959 the advance payment of water rates due the United States. The Contractor shall not furnish water  
960 made available pursuant to this Contract for lands or parties which are in arrears in the advance  
961 payment of water rates levied or established by the Contractor.

962 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
963 obligation to require advance payment for water rates which it levies.

964 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

965 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
966 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
967 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,  
968 as well as with their respective implementing regulations and guidelines imposed by the U.S.  
969 Department of the Interior and/or Bureau of Reclamation.

970 (b) These statutes require that no person in the United States shall, on the  
971 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be  
972 denied the benefits of, or be otherwise subjected to discrimination under any program or activity  
973 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the  
974 Contractor agrees to immediately take any measures necessary to implement this obligation,  
975 including permitting officials of the United States to inspect premises, programs, and documents.

976 (c) The Contractor makes this agreement in consideration of and for the purpose  
977 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal  
978 financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation,  
979 including installment payments after such date on account of arrangements for Federal financial  
980 assistance which were approved before such date. The Contractor recognizes and agrees that such  
981 Federal assistance will be extended in reliance on the representations and agreements made in this  
982 Article, and that the United States reserves the right to seek judicial enforcement thereof.

983 PRIVACY ACT COMPLIANCE

984 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)  
985 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et  
986 seq.) in maintaining Landholder acreage certification and reporting records, required to be  
987 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform  
988 Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

989 (b) With respect to the application and administration of the criminal penalty  
990 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible  
991 for maintaining the certification and reporting records referenced in (a) above are considered to be  
992 employees of the Department of the Interior. See 5 U.S.C. 552a(m).

993 (c) The Contracting Officer or a designated representative shall provide the  
994 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of  
995 Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,  
996 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information  
997 contained in the Landholder's certification and reporting records.

998 (d) The Contracting Officer shall designate a full-time employee of the Bureau of  
999 Reclamation to be the System Manager who shall be responsible for making decisions on denials  
1000 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is  
1001 authorized to grant requests by individuals for access to their own records.

1002 (e) The Contractor shall forward promptly to the System Manager each proposed  
1003 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR  
1004 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
1005 information and records necessary to prepare an appropriate response to the requester. These  
1006 requirements do not apply to individuals seeking access to their own certification and reporting  
1007 forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the  
1008 Privacy Act as a basis for the request.

1009 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1010 25. In addition to all other payments to be made by the Contractor pursuant to this  
1011 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and  
1012 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of  
1013 direct cost incurred by the United States for work requested by the Contractor associated with this  
1014 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and  
1015 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in  
1016 writing in advance by the Contractor. This Article shall not apply to costs for routine contract  
1017 administration.

1018 WATER CONSERVATION

1019 26. (a) Prior to the delivery of water provided from or conveyed through Federally  
1020 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be  
1021 implementing an effective water conservation and efficiency program based on the Contractor's  
1022 water conservation plan that has been determined by the Contracting Officer to meet the  
1023 conservation and efficiency criteria for evaluating water conservation plans established under  
1024 Federal law. The water conservation and efficiency program shall contain definite water  
1025 conservation objectives, appropriate economically feasible water conservation measures, and time

1026 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract  
1027 shall be contingent upon the Contractor's continued implementation of such water conservation  
1028 program. In the event the Contractor's water conservation plan or any revised water conservation  
1029 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been  
1030 determined by the Contracting Officer to meet such criteria, due to circumstances which the  
1031 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be  
1032 made under this Contract so long as the Contractor diligently works with the Contracting Officer to  
1033 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately  
1034 begins implementing its water conservation and efficiency program in accordance with the time  
1035 schedules therein.

1036           (b)     Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1037 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement  
1038 the Best Management Practices identified by the time frames issued by the California Urban Water  
1039 Conservation Council for such M&I Water unless any such practice is determined by the  
1040 Contracting Officer to be inappropriate for the Contractor.

1041           (c)     The Contractor shall submit to the Contracting Officer a report on the status  
1042 of its implementation of the water conservation plan on the reporting dates specified in the then  
1043 existing conservation and efficiency criteria established under Federal law.

1044           (d)     At five-year intervals, the Contractor shall revise its water conservation plan  
1045 to reflect the then current conservation and efficiency criteria for evaluating water conservation  
1046 plans established under Federal law and submit such revised water management plan to the  
1047 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the

1048 water conservation plan meets Reclamation's then current conservation and efficiency criteria for  
1049 evaluating water conservation plans established under Federal law.

1050 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1051 shall be described in the Contractor's water conservation plan.

1052 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1053 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
1054 Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1055 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.  
1056 Any such water shall not be considered Project Water under this Contract. In addition, this Contract  
1057 shall not be construed as limiting or curtailing any rights which the Contractor or any water user  
1058 within the Contractor's Service Area acquires or has available under any other contract pursuant to  
1059 Federal Reclamation law.

1060 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1061 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1062 and responsibility for funding a portion of the costs of such O&M, have been transferred to the San  
1063 Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement  
1064 (8-07-20-X0354) between the United States and the Operating Non-Federal Entity San Luis &  
1065 Delta-Mendota Water Authority. That separate agreement shall not interfere with or affect the  
1066 rights or obligations of the Contractor or the United States hereunder.

1067 (b) The Contracting Officer has previously notified the Contractor in writing that  
1068 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the  
1069 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and therefore, the  
1070 Contractor shall pay directly to the Operating Non-Federal Entity San Luis & Delta-Mendota Water

1071 Authority, or to any successor approved by the Contracting Officer under the terms and conditions  
1072 of the separate agreement between the United States and the Operating Non-Federal Entity San Luis  
1073 & Delta-Mendota Water Authority described in subdivision (a) of this Article, all rates, charges, or  
1074 assessments of any kind, including any assessment for reserve funds, which the Operating Non-  
1075 Federal Entity San Luis & Delta-Mendota Water Authority or such successor determines, sets, or  
1076 establishes for the O&M of the portion of the Project facilities operated and maintained by the  
1077 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such successor. Such  
1078 direct payments to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or  
1079 such successor shall not relieve the Contractor of its obligation to pay directly to the United States  
1080 the Contractor's share of the Project Rates, Charges, and Tiered Pricing Component except to the  
1081 extent the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority collects  
1082 payments on behalf of the United States in accordance with the separate agreement identified in  
1083 subdivision (a) of this Article.

1084 (c) For so long as the O&M of any portion of the Project facilities serving the  
1085 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water  
1086 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the  
1087 Rates for Water Delivered under this Contract representing the cost associated with the activity  
1088 being performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority  
1089 or its successor.

1090 (d) In the event the O&M of the Project facilities operated and maintained by the  
1091 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the  
1092 United States during the term of this Contract, the Contracting Officer shall so notify the  
1093 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the

1094 portion of the Rates to be paid by the Contractor for Project Water under this Contract representing  
1095 the O&M costs of the portion of such Project facilities which have been re-assumed. The  
1096 Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to  
1097 the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the revised Exhibit  
1098 “B” directly to the United States in compliance with Article 7 of this Contract.

1099 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1100 29. The expenditure or advance of any money or the performance of any obligation of  
1101 the United States under this Contract shall be contingent upon appropriation or allotment of funds.  
1102 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations  
1103 under this Contract. No liability shall accrue to the United States in case funds are not appropriated  
1104 or allotted.

1105 BOOKS, RECORDS, AND REPORTS

1106 30. (a) The Contractor shall establish and maintain accounts and other books and  
1107 records pertaining to administration of the terms and conditions of this Contract, including: the  
1108 Contractor's financial transactions, water supply data, and Project land and right-of-way  
1109 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use  
1110 data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished  
1111 to the Contracting Officer in such form and on such date or dates as the Contracting Officer may  
1112 require. Subject to applicable Federal laws and regulations, each party to this Contract shall have  
1113 the right during office hours to examine and make copies of the other party's books and records  
1114 relating to matters covered by this Contract.

1115 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,  
1116 records, or other information shall be requested from the Contractor by the Contracting Officer  
1117 unless such books, records, or information are reasonably related to the administration or  
1118 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1119 time within which to provide the requested books, records, or information.

1120 (c) At such time as the Contractor provides information to the Contracting  
1121 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided to  
1122 the Operating Non-Federal Entity.

1123 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1124 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1125 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1126 therein shall be valid until approved in writing by the Contracting Officer.

1127 (b) The assignment of any right or interest in this Contract by either party shall  
1128 not interfere with the rights or obligations of the other party to this Contract absent the written  
1129 concurrence of said other party.

1130 (c) The Contracting Officer shall not unreasonably condition or withhold  
1131 approval of any proposed assignment.

1132 SEVERABILITY

1133 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor  
1134 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an  
1135 association or other form of organization whose primary function is to represent parties to Project  
1136 contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1137 enforceability of a provision included in this Contract and said person, entity, association, or  
1138 organization obtains a final court decision holding that such provision is legally invalid or  
1139 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the  
1140 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court  
1141 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)  
1142 within three months thereafter promptly agree on the appropriate revision(s). The time periods  
1143 specified above may be extended by mutual agreement of the parties. Pending the completion of  
1144 the actions designated above, to the extent it can do so without violating any applicable provisions  
1145 of law, the United States shall continue to make the quantities of Project Water specified in this

1146 Contract available to the Contractor pursuant to the provisions of this Contract which were not  
1147 found to be legally invalid or unenforceable in the final court decision.

1148 RESOLUTION OF DISPUTES

1149 33. Should any dispute arise concerning any provisions of this Contract, or the parties'  
1150 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the  
1151 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring  
1152 any matter to the Department of Justice, the party shall provide to the other party 30 days' written  
1153 notice of the intent to take such action; Provided, That such notice shall not be required where a  
1154 delay in commencing an action would prejudice the interests of the party that intends to file suit.  
1155 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in  
1156 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to  
1157 waive or abridge any right or remedy that the Contractor or the United States may have.

1158 OFFICIALS NOT TO BENEFIT

1159 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1160 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1161 manner as other water users or landowners.

1162 CHANGES IN CONTRACTOR'S SERVICE AREA

1163 35. (a) While this Contract is in effect, no change may be made in the Contractor's  
1164 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,  
1165 except upon the Contracting Officer's written consent.

1166 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1167 Officer will notify the Contractor of any additional information required by the Contracting Officer  
1168 for processing said request, and both parties will meet to establish a mutually agreeable schedule for  
1169 timely completion of the process. Such process will analyze whether the proposed change is likely  
1170 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability

1171 of the Contractor to pay for Project Water furnished under this Contract or to pay for any  
1172 Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on  
1173 any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall  
1174 comply with the NEPA and the ESA. The Contractor will be responsible for all costs incurred by  
1175 the Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of  
1176 this Contract.

1177 FEDERAL LAWS

1178 36. By entering into this Contract, the Contractor does not waive its rights to contest the  
1179 validity or application in connection with the performance of the terms and conditions of this  
1180 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the  
1181 terms and conditions of this Contract unless and until relief from application of such Federal law or  
1182 regulation to the implementing provision of the Contract is granted by a court of competent  
1183 jurisdiction.

1184 NOTICES

1185 37. Any notice, demand, or request authorized or required by this Contract shall be  
1186 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered  
1187 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California  
1188 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board  
1189 of Directors of the Eagle Field Water District, 51170 West Althea Avenue, Firebaugh, California  
1190 93622. The designation of the addressee or the address may be changed by notice given in the same  
1191 manner as provided in this Article for other notices.

1192 CONFIRMATION OF CONTRACT

1193 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a  
1194 decree of a court of competent jurisdiction of the State of California, confirming the execution of  
1195 this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the  
1196 validation proceedings, and all pertinent supporting records of the court approving and confirming  
1197 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1198 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and  
1199 year first above written.

1200 THE UNITED STATES OF AMERICA

1201 By: \_\_\_\_\_  
1202 Regional Director, Mid-Pacific Region  
1203 Bureau of Reclamation

1204 (SEAL)

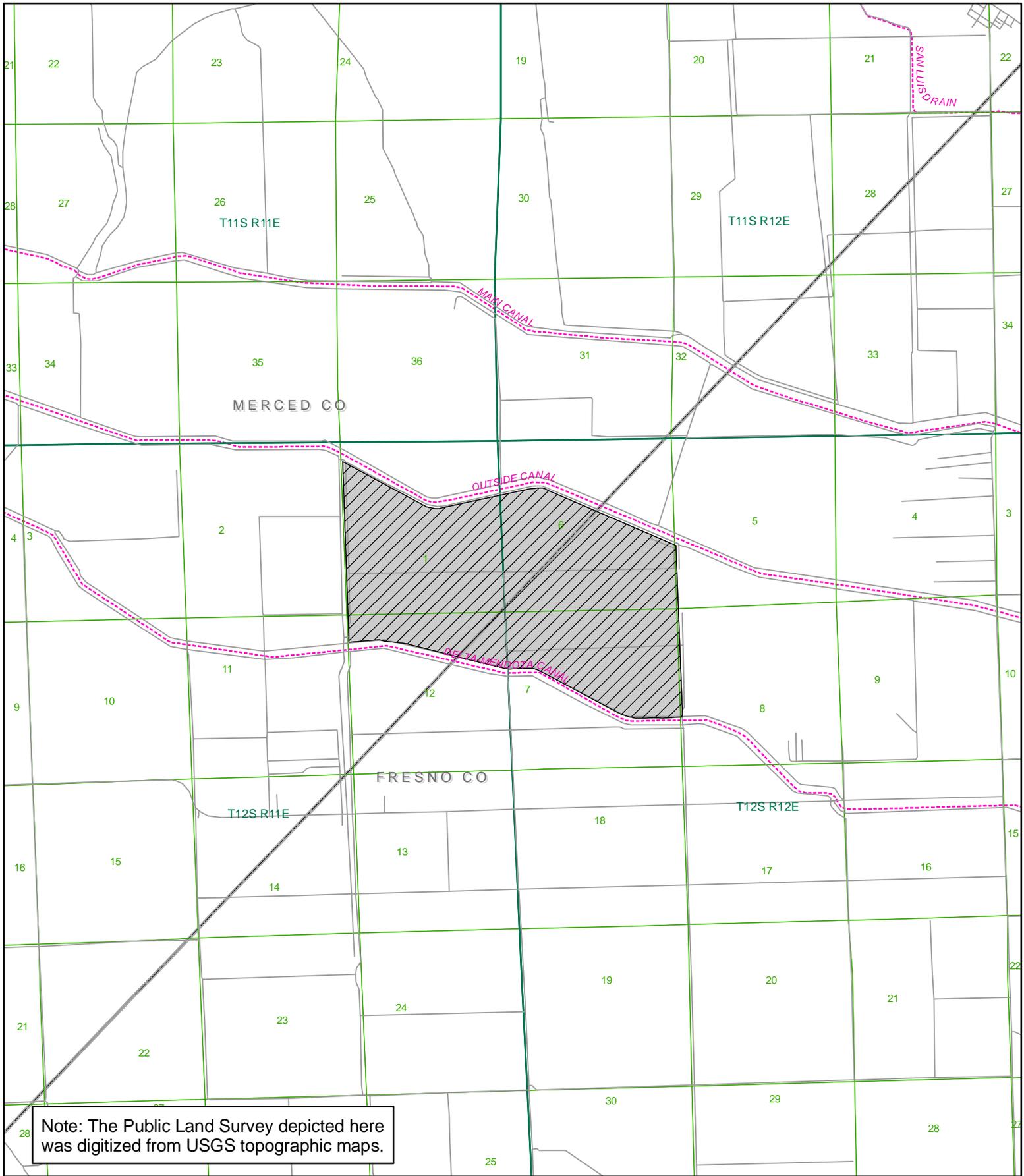
1205 EAGLE FIELD WATER DISTRICT

1206 By: \_\_\_\_\_  
1207 President of the Board of Directors

1208 Attest:

1209 By: \_\_\_\_\_  
1210 Secretary of the Board of Directors

1211 (H:\pub 440\LTRC\Final Draft LTRC's – Fresno, Tracy\09-14-04 Eagle Field WD Final Draft  
1212 LTRC with exhibits.doc)



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

-  Contractor's Service Area
-  District Boundary

# Eagle Field W.D.

Contract No. 14-06-200-7754-LTR1  
EXHIBIT A

11

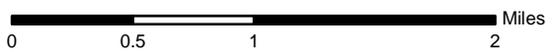


EXHIBIT B  
EAGLE FIELD WATER DISTRICT  
Water Rates and Charges

Note: Rates and Charges are 2004 rates. This exhibit will be updated prior to execution of the contract to reflect the current Rates and Charges.

<u>COST-OF-SERVICE RATES:</u>	<u>2004 Rates per Acre-Foot</u>	
	<u>Irrigation</u> <u>Water</u>	<u>M&amp;I</u> <u>Water 1/</u>
Capital Rates	\$ 9.50	
O&M Rates:		
Water Marketing	7.59	
Storage	5.83	
Conveyance		
Conveyance Pumping		
Deficit Rates:		
Non-Interest Bearing		
Interest Bearing		
CFO/PFR Adj. Rate 2/	<u>1.43</u>	
<b>TOTAL COST-OF-SERVICE-RATES</b>	<u><b>\$24.35</b></u>	<u><b>1/</b></u>

FULL-COST RATES

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981. \$36.96

Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981. \$44.00

CHARGES UNDER P.L. 102-575 TO RESTORATION FUND 3/

Restoration Payments (3407(d)(2)(A))	<u>\$ 7.82</u>	<u>\$15.64</u>
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1/ To be provided as needed. Contractor does not currently receive M&I water and is not projected to take any in the near future.

2/ Rate represents Chief Financial Officers (CFO) adjustment and Provision for Replacement (PFR) credit for option 2 cost deferment to be distributed over 5-year period beginning with 2003 water rates.

3/ Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1-9/30).